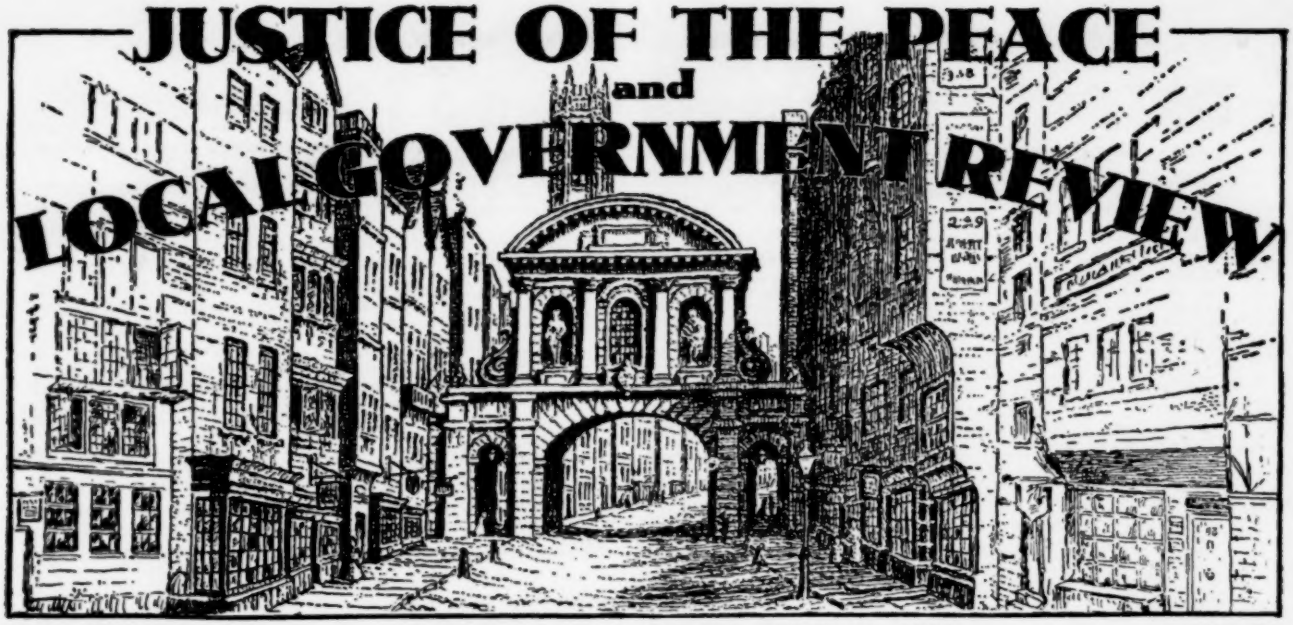
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



VOL. CXVII LONDON: SATURDAY, JULY 11, 1953 No. 28

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* **10** *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS VACANT

EAST SUFFOLK COUNTY COUNCIL—vacancy exists for a Senior Assistant Solicitor at salary on scale £950—£1,150 per annum. Applications, with particulars of experience and names of two referees, to Clerk of the County Council, County Hall, Ipswich (from whom further particulars may be obtained), not later than Friday, July 31, 1953.

SITUATIONS WANTED

YOUNG MAN (22), capable and keen 5 years' experience general practice and magistrates' clerk's office, good experience of magisterial work, competent shorthand-typist, seeks post in London Area or Southern Counties. Box No. D.15, Office of this paper.

FOR SALE

COMPLETE SET of the "Justice of the Peace and Reports," Volume I to date, bound in half calf, good condition. Apply R. P. Liddle, Newport, Salop.

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YORKSHIRE DETECTIVE BUREAU T. E. Hoyland. **Ex-Detective Sergeant.** Member of the B.D.A., F.B.D., Associated American Detective Agencies, and the World Secret Service Association. Confidential enquiries ; Divorce, etc. ; Over 600 agents in all parts of the World. Over twenty-five years C.I.D. and Private Detective Experience at your service. 1, Mayo Road, Bradford. Tel. : 26823 day or night. Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

BOROUGH OF BECKENHAM

Committee Clerk

APPLICATIONS are invited for this post, at a salary within the Grades A.P.T. IV-V. Housing accommodation cannot be offered. Applications, with names of two referees, to be sent to me by Wednesday, July 22, 1953.

R. WEBSTER STORR,
Town Clerk.

Town Hall,
Beckenham.

COUNTY BOROUGH OF SMETHWICK

Appointment of Law Clerk

APPLICATIONS are invited from unadmitted Solicitor's Clerks with extensive experience in legal work in private practice or local government for appointment to the above post in the Town Clerk's Department.

The salary will be in accordance with Grades A.P.T. VI—VIII of the National Scales (£670—£835).

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination.

Applications, stating age, marital condition, and giving full particulars of present and previous appointments and experience of conveyancing, common law, insurance, compulsory purchase orders, Rent Restrictions Acts and other legal work, together with the names of two persons to whom reference may be made, should be endorsed "Law Clerk" and should reach the undersigned not later than July 18, 1953.

E. L. TWYCROSS,
Town Clerk.

Council House,
Smethwick.

CITY OF SALFORD

Appointment of Senior Probation Officer

APPLICATIONS are invited for the appointment of a Senior Probation Officer.

Applicants must be serving probation officers with considerable experience.

Salary and allowance according to the Probation Rules, 1949 to 1952.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with not more than three recent testimonials, must reach the undersigned not later than July 25, 1953.

J. W. REAVEY,
Secretary of the Probation Committee.

Magistrates' Court,
Town Hall,
Salford, 3.

COUNTY OF KENT

Appointment of Woman Probation Officer

THE Kent Probation Committee invites applications for the appointment of a whole-time Woman Probation Officer to serve in the Kent Probation Area.

The appointment will be subject to the Probation Rules, 1949 to 1952, and the salary will be in accordance with the scales provided in the Rules. The appointment is superannuable.

Applicants must be between the ages of twenty-three and forty, except in the case of serving officers, and must be qualified to deal with probation cases, matrimonial differences and other social work of the Courts.

The selected candidate will be required to pass a medical examination.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within fourteen days of the appearance of this advertisement.

W. L. PLATTS,
Clerk of the Peace.

County Hall,
Maidstone.

BOROUGH OF COLCHESTER

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors having local government experience for the appointment of Deputy Town Clerk. The salary will be £1,050×£50—£1,250, and the conditions of service in accordance with the recommendations of the Negotiating Committee for Chief Officers of Local Authorities. The appointment will be determinable by two months' notice.

Applications, together with the names of two referees, must reach me by July 27.

Canvassing is prohibited, and candidates must state whether they are related to any member or senior officer of the Council.

N. CATCHPOLE,
Town Clerk.

Town Hall,
Colchester.
July, 1953.

CITY OF PLYMOUTH

Appointment of Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of serving officers. The appointment will be subject to the Probation Rules, 1949 to 1952, and will be superannuable, the successful candidate being required to pass a medical examination.

Applications, stating age, qualifications and experience, together with not more than three recent testimonials, must reach the undersigned not later than July 17, 1953.

EDWARD FOULKES,
Secretary of the Probation Committee.

Greenbank,
Plymouth.
June 19, 1953.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

The Clerk's Notes

We have always considered that it is desirable for a clerk to take an adequate note of the evidence in summary proceedings, although it is not a statutory requirement. There is an obligation to do so in matrimonial cases, as a number of high court decisions have shown. The question of supplying copies of notes sometimes calls for the exercise of discretion, but it is usual to supply them to a person who needs them in connexion with subsequent legal proceedings in which evidence given in the magistrate's court may be relevant.

Our views are strengthened by reading an opinion expressed in the current issue of *The Justices' Clerk*, which is the bulletin of the Justices' Clerks' Society, a society whose opinions naturally carry weight.

The following is an extract: "The Committee [the legal committee] are of opinion that there is no obligation to supply copies of notes of evidence taken in cases other than matrimonial cases. Indeed there is apparently no obligation even to take such notes. However, a prudent clerk will take adequate notes and in such an event the supply of copies is in his discretion. Nevertheless the committee recommend that copies be supplied only to a solicitor who can satisfy the clerk that his client has a genuine interest in the subject matter of the case. By the adoption of this recommendation the clerk may save himself, the inconvenience of having to appear in another court upon subpoena to produce his original notes."

Durham Probation Report

It is evidently becoming the practice in more and more areas for courts of assize and quarter sessions to receive reports from probation officers who have made social investigations about persons committed for trial. In his report for 1952, Mr. W. H. Pearce, principal probation officer for Durham County Combined Probation Area, acknowledges the help he has received from chief constables who inform the county probation office of all cases committed for trial. The arrangement has proved a success, and reports are now available to the higher courts in approximately seventy-five *per cent.* of the cases committed. This has resulted in a substantial increase in the use of probation in these courts and the percentage of cases placed under supervision by assizes and quarter sessions exceeded that of any previous year.

After referring to the question of inquiries and reports to the juvenile courts, Mr. Pearce goes on: "It is surprising to find that the magistrates' courts rarely remand adult offenders for similar inquiries to be made by the probation officers. Is there such a difference between a boy or girl of sixteen and a half and another of seventeen and a half years that makes it unnecessary to investigate their home surroundings, character, work record and leisure activities, before dealing with them in the most effective manner? The courts of assize and quarter sessions accept reports in the majority of cases and I would recommend this procedure to those adjudicating in the magistrates' courts."

Dealing with after care work, the report refers to the present system relating to approved schools and the possible overlapping by various agencies who are prepared to act as supervisors. It expresses the hope that, in the interests of those leaving approved schools, the whole subject will be reviewed in the near future.

Statistics seem to show excessive case loads borne by some of the officers. As Mr. Pearce says: "If constructive help is to be given to those under supervision, close personal contact with the offender, his family and home is essential. . . . It is, however, impossible to expect a high standard of case-work planning from an overloaded officer who, in addition to supervising probation and after-care cases, is endeavouring to cope with a constant flow of matrimonial and miscellaneous inquiries from the court."

The question of additional staff has been considered by the probation committee, and no doubt the position will soon be made satisfactory.

Services for Mothers and Children in Canada

Reports of the Social Welfare Departments for British Columbia and Saskatchewan for the past year include references to the legislative position as to women and children who come to the department for advice and assistance. In these matters, the position depends on provincial legislation and, in some respects, there are variations between the different provinces but broadly the principles on which the legislation is based are very similar. The assistance of deserted wives and families is one of the matters with which the Social Welfare Department is concerned and particularly as to obtaining of maintenance orders against husbands. Until recently there was difficulty in enforcing these orders but under amending legislation an order obtained through a district court is now deemed to be a judgment of the court for all purposes and enforcement is thus made easier. Another amendment provides for maintenance orders having priority over other debts and a further amendment concerns the grounds for appeal to a judge of the Court of Queen's Bench in Chambers. Previously, appeal procedure was only possible when either party was aggrieved by an order for maintenance made under the statute. Now there may be an appeal if the court of summary jurisdiction either refuses or fails to make an order. There are reciprocal arrangements in regard to the making and enforcement of maintenance orders not only with Great Britain and Northern Ireland but also between the various provinces. The department is also concerned with helping unmarried mothers, and in this connexion works in close association with voluntary organizations. It is desired that all cases of unmarried mothers should be referred to the department

early in their pregnancies. In addition to thus providing an advisory service the department gets in touch, whenever possible, with the alleged father in order to establish paternity of the child and to obtain financial assistance for the mother. Voluntary agreements or maintenance orders are obtained whenever possible. If an unmarried mother decides that it is in the best interests of her child to give it up, guardianship is transferred from the mother to the Minister of Social Welfare by a court order.

An entirely different matter which is of special interest to those in this country who are concerned with child emigration is a reference in the British Columbia report to the Fairbridge scheme. Before the war a considerable number of children from this country were emigrated to Canada by the Fairbridge Society and other organizations. Under the Fairbridge scheme the children went to a farm school on Vancouver Island but none have gone there for some years and the scheme has been gradually closed down. In British Columbia the emphasis in the case of children for whom the Department is responsible is on placing them in foster homes rather than in any form of institution. The Fairbridge scheme did not therefore meet with the complete approval of the Social Welfare Department. Now all the children have been removed from the school, and are in foster homes. Supporters of the Fairbridge Society will be glad to know from the report that the adjustment of these children to life in a family has been good. Several have been encouraged to continue their education and the majority have made secure places for themselves in the communities in which they are living. The department has also some responsibility for children going to Canada from other countries without their parents even when they go to relatives. Most of these children have gone in recent years from Europe and few from Great Britain. It is clear from the report that great care must be taken and full inquiries made before any children are emigrated to Canada to relatives or otherwise.

Homeless Families in London

A survey made by the Welfare Department of the London County Council shows that more than 10,000 familes have been provided with temporary accommodation since the end of the war, first, in premises which were used previously as rest centres, and later in other buildings which were taken over for the purpose. Many families were also accommodated in establishments provided by the council under Part III of the National Assistance Act, 1948. Of the families who passed through the centres between April, 1947, and March, 1953, approximately seventy *per cent.* were rehoused by the council, eighteen *per cent.* by the metropolitan borough councils, eight *per cent.* found their own accommodation and four *per cent.* were evicted for failing to pay their rest centre charges or for other reasons. The wives and children of some of the latter were subsequently re-admitted to Part III accommodation. Before 1948 in London, as elsewhere in the country, there was little, if any, need to make provision for homeless families in Poor Law establishments, but following the passing of the Act of 1948 applications for homeless families increased considerably and in a number of cases the reasons for homelessness were eviction for non-payment of rent, overcrowding, and unauthorized tenancies. In the early stages, husbands were admitted with the families, but continuously increasing pressure on accommodation led to a decision in 1949 to admit only the mothers and children to the large homes. The cost of maintaining these families for the last five years has been about £659,000 of which only £108,000 has been recovered from the heads of the families. Clearly this is a problem of housing and not of welfare, but the administration of the new National Assistance Service in London and other parts of the country has shown that, as under the Poor Law, it is of importance that there should be some authority which can take action on the broad grounds of welfare when other services cannot meet some particular need.

Derelict Canals

The Government is considering the desirability of introducing legislation to deal with the closing of derelict canals and has asked for the views of various interested bodies, including the local authorities associations. The Association of Municipal Corporations is of opinion that this is a national problem which should be dealt with by general legislation, with the ultimate objective of disused canals being drained and filled in and the sites absorbed into the redevelopment of the area through which the canal passes. As a first step, it is suggested that when a canal is no longer required for public navigation the canal company should be relieved of their statutory obligations to maintain the canal in a navigable condition, but should be placed under obligations such as fencing, the prevention of nuisances and the conveyance of land and easements for highway improvements. The association recommends that legislation should confer powers on the Minister of Transport to enable him to determine when a canal has ceased to be required for the purpose of navigation ; and that powers should also be conferred on local authorities or local planning authorities under which they should be able to decide, subject if necessary to Ministerial appeal, upon the fate of a canal or part of a canal which is no longer required for navigation.

Loud Speakers in Streets

Some boroughs are concerned at the nuisance caused by the use of loud speakers in streets and the Association of Municipal Corporations accordingly took the matter up with the Home Office suggesting that general legislation should be introduced. The department has, however, intimated that no general legislation on the subject is at present contemplated, but has drawn attention to the powers which have been obtained by some local authorities through local Acts prohibiting the use of loud speakers in streets for advertising purposes. For instance, the Winchester Corporation Act, 1952, includes such a provision, and further prohibits any person operating or causing to be operated any loudspeaker in a street for any purpose unless he has given notice to the corporation and to the chief constable for the county. The prohibition does not apply to the use of a loudspeaker by the corporation, the police or the fire brigade in the execution of their duty or in case of emergency or for the purpose of a public transport announcement or in connexion with a parliamentary or local government election. The Home Office pointed out that parliament normally allows such provisions only in cases where special need for them can be shown and has disallowed similar provisions in several instances, thus expressing a preference for local legislation rather than a general Act. Nevertheless, it was stated that if a Private Member's Bill on the lines of the Winchester provisions were introduced the Secretary of State would not be disposed to oppose it although he might have reservations on matters of detail.

Welfare Administration

The report of the last meeting of the Welfare Committee of the Association of Municipal Corporations contains some matters which are of general interest. A letter was received from Hastings suggesting that legislation should be introduced to provide that a person in a voluntary home should be deemed, for the purpose of s. 24 of the National Assistance Act, 1948, to be ordinarily resident in the area in which he was ordinarily resident immediately before he was admitted to the

home. In support of this suggestion it was explained that Hastings has had to accept responsibility for some persons in homes in the borough, although they were not residing there previously. The association took the view, however, that this is a matter which should be settled by local action. Another matter which was considered by the welfare committee was in regard to the payment of post-war credits, as apparently payments are only made to persons by reason of age and there is no authority for payment to a public body where a person in an institution dies intestate and without relatives. The association decided to take the matter up with the Board of Inland Revenue. A further matter which is mentioned in the report is as to local authorities being empowered to recover the cost of maintenance from the estates of persons dying in their establishments. This has been discussed with the Ministry of Health and would require amending legislation. Finally the committee considered the designation of hospitals for the purpose of the temporary detention of persons alleged to be of unsound mind. There are some former poor law hospitals which still remain vested in the local authority and the Minister of Health cannot designate part of these hospitals for the purpose of s. 20 of the Lunacy Act, 1890. It was decided to ask the Minister to introduce amending legislation enabling him to do so.

County Councils Association

The County Councils Association could hardly have done better than to choose the Rt. Hon. J. Chuter Ede, M.P., as its president in succession to Sir Arthur Hobhouse. Before he was given high office in the Labour Government, Mr. Chuter Ede served on the association as a representative of the Surrey County Council, of which he was a member for thirty-five years, and for a time its chairman. He has also had experience of urban and borough administration and was the first mayor of Epsom and Ewell. Whilst he was Home Secretary from 1945 to 1950, he came into close contact with the local authorities' associations, and although they did not always agree with his policy he was, as was stated by the seconder of the motion for his appointment as president, always willing to consult the associations and other interested bodies on any matters affecting them, and always in his judgment, he took due regard of the opinions of others before expressing the final decision. It was peculiarly fitting that the present Home Secretary (Sir David Maxwell Fyfe, Q.C., M.P.) should have been the speaker at the annual meeting of the Association. The president, in introducing him, paid tribute to his policy of endeavouring to carry on the public services for which he is responsible to Parliament in the tradition of co-operation which generations of Home Secretaries and local administrators have built up.

In his address the Home Secretary referred to a variety of subjects including those concerning children, civil defence, the fire services and the establishment of the magistrates' courts committees. On the problem of evicted families, he urged that this is first a responsibility of housing authorities, next of the welfare authorities to keep the families together, and only in the last resort, is it a responsibility of the children's authorities to receive the children into care. On civil defence, he mentioned the film which has been produced on the atom bomb. He believed that this paints an objective picture, that it does not try to minimize or, on the other side, maximize and be horrific, but that it gives a well-balanced picture of the effect of the bomb. He believed that it disposes " with the really stupid and short-sighted idea that the atomic bomb has made civil defence worthless." Turning to the very different subject of the magistrates' courts committees which, in the counties, have taken over the functions of the Standing Joint Committees in relation to the Petty Sessional Courts, he said these are providing new and additional problems and functions. He explained that county justices, through these committees, are responsible for the appointment of clerks to justices and their assistants ; for initiating expenditure for the running of the courts ; and for overseeing their work. The county council have a right to be consulted before the courts committee determine expenditure, and there is a right of appeal to the Home Secretary. Sir Maxwell expressed the strong view, however, that it is most desirable that these matters should be settled locally, and he hoped that consultation and co-operation between the county councils and the justices would bring this about. From the financial aspect of the new procedure, no local authority has any particular interest in the receipts from the courts in their area and the Exchequer has the preponderant interest. The rates will be relieved by about £1 million a year. It was for this reason that the justices' clerks accounts are to be audited by the Exchequer.

Educational Needs and Deficiencies

The chronic conflict between the theory of ever more and better education for the rising generation and the physical and financial realities of its provision will be sharpened by criticisms and suggestions made in the eighth report from the Select Committee on Estimates. None of the parties to the problem as a whole has been less harassed, one than another, by a desire to find and act on the right answer to the problems within their immediate jurisdiction ; cabinet, treasury, ministry, authorities and staffs have all struggled to discern and travel the most profitable and practicable route through a maze of difficulties engendered by raising of the school age, a bulge in the post-war birth-rate, competing claims on the nation's building resources, and various by-products of economic upheavals during and since the war.

Neither any nor all of the recommendations of the committee contain a magic potion of insight as yet unseen, of penetration not previously made, or of sovereign remedy so far overlooked for inability to achieve standards regarded as desirable or necessary. The report indicates that targets are clear enough but that weapons are in shorter supply than the requisite skills in using them. The weapons are materials and labour, inadequate largely for the obvious reason of deliberate employment for other purposes, mainly housing, which emanates from decisions on national policy beyond the committee's terms of reference, which are limited to an examination of the efficiency in use of such resources as are measured out in 1953-54 gross estimates for public education in England, Scotland and Wales amounting to about £280 million, apart from some £150 million falling on local rates.

Among benefits from the committee's painstaking investigation of the existing shortage of educational provision and the slow rate of meeting the deficit will be a jolt for any who had come to accept things as they are. While, for instance, a considerable shortage of provision subsists, is generally admitted, and its clearance is obscure, complacency can grow and become established as regards the importance of that exact measurement which helps to maintain a proper sense of urgency ; therefore, the committee's recommendation of keener estimation of the number of places needed will be helpful, as would more detailed information about old schools with a view to their adequate maintenance. A clear case has been furnished by the committee for the organization of the school building programme on a three-year basis, and their confidence will be shared that economy would result throughout the country.

Although over 200 pages of minutes of evidence appended to the committee's report frequently disclose high degrees of

co-ordination, co-operation and consultation between all parties concerned, the committee are able to point out further directions in which those features would be profitable. Much of the evidence and annexed memoranda are worthy of more detailed study than they are likely to receive in their published form, which prompts a suggestion that the valuable reports of the select committee would make a larger contribution to the most effective deployment of national resources if they were framed on more ample lines, in particular to embody extended reference in narrative form to salient passages from the evidence of distinguished witnesses, including in the present instance a number from leading local education authorities and their associations, who had much to say drawn from particular experience which would usefully be within the knowledge of all.

OFFICERS OF THE POLICE

By A SENIOR POLICE OFFICER

Your contributor in his article at p. 343 *ante* has presented in a closely argued form, one side of the problem which is exercising the minds of a majority of police officers in the United Kingdom. The view put forward is one strongly held by a minority of chief constables composed mainly of the more successful products of the Metropolitan Police College at Hendon, an institution whose passing was mourned by a few and acclaimed by the many.

On one point the service speaks with one voice. All police officers are anxious to see an end to the system of appointment to the highest ranks in the service from outside. Where the service does not agree is on the method by which officers should rise to high rank from within.

The simplest view, indeed it is almost naive, is that so pleasantly urged by your contributor. It is, in effect, a plea for an armed forces system for our police service. This does not necessarily involve direct entry commissions but it does entail the earliest possible selection for, and entry to, an officer class. Lord Trenchard's scheme did provide for direct entry as well as early selection. It is almost amusing to hear now, as one sometimes does, of the noble Lord's revolutionary ideas. So they were in relation to the police service, but his " officer class " and his disastrous " short service " scheme for other ranks were, in fact, taken straight out of the fighting services' book.

Theoretically, the Trenchard schemes provided the right answers to the main police personnel problem—which is to maintain a force of men reasonably young and well led. In practice, it did not work out. (His short service men, for example, driven in by the economic situation of the time, simply scrambled to get out again into more secure positions.)

Stated as simply as possible, the dilemma of the police service is this. There is a real need for our police forces to be led by first-class men. The temptation is to meet this need by creating an officer class by methods similar to those used in the fighting services. If one succumbs to the temptation the problem resulting from the cure is greater than the original ailment ; the last state is worse than the first.

Police traditions are, in fact, very different from fighting services traditions ; the field of recruitment is much narrower, the scope of duties much broader. Experience is much more valued among even the most junior supervizing officers, and individual responsibility from the lowest to the highest rank is much more individual than in the armed forces.

Rates of pay have, of course, played a great part in police traditions. They have been set so as to attract to the service men of intelligent artisan standards and a little above. The field has been kept narrow by pay limits coupled with a very proper insistence on personal integrity. Each man is told that ability and application to police work may take him to the highest ranks. There never has been an officer class except for the comparatively small number of persons recruited direct to the higher ranks, especially county chief constableships.

Promotion within the service is for the majority slow, but the possibilities are there, and are closely linked with the insistence on a high standard of recruit as to integrity, initiative and general character though not, it is true, of education. Lord Trenchard proposed that this kind of recruit should be limited in promotion prospects to the ranks of Sergeant and Inspector, whilst the higher ranks would be reserved for his College-trained officer class.

Only the Metropolitan Police was affected by the Trenchard schemes, and it is sufficient to say that bitterness still lingers today in the hearts of many police officers, whose careers were adversely influenced. It would, of course, be too much to expect that those who benefited should share this dislike of an innovation alien to the police service.

Disciplined as the police are, not a great deal has ever been heard of the impact of the Trenchard schemes on the service. The feelings engendered were, however, recognized by the Committee set up to consider and report on principles to be followed in the post-war police service (*see* the First Report of the Post War Committee, Cmd. 7070). Very cleverly, the Committee was able to steer a middle course which was acceptable to the police service as a whole, and which attempted to find a means whereby the leaders needed by the service were to be discovered among the personnel recruited according to prevailing traditions. From the proposals of the Committee arose the National Police College which has been functioning for some years.

Your correspondent in his article reflects the uneasiness in some people's minds that the present Police College is not producing the leaders required. There are arguments and counter arguments, but this fundamental position remains. Our police service has developed to its present stage without the creation of an officer class. Recruitment has always proceeded on the basis that each recruit was a potential chief constable. The doctrine of the " short cut " to the higher ranks, if introduced, must necessarily, if the police service is to be reasonably content, be accompanied by a reduction in the standard of recruit to the ranks, so that the ranks are composed mainly of men with little ambition and to whom the life of a constable is a veritable " Bobby's job." Of the two evils, insufficient or insufficiently qualified leaders, or a reduction in the standard of recruit, the latter seems incomparably the greater. One must remember that the British police system has up to now worked ; there are even people who say it has worked well ! Can it be said that this has been due to the few " educated " men recruited to the top of the service (though one would not wish to minimize the contribution some of them have made), or is the answer that the police service is fundamentally sound despite handicaps ?

The present Police College is working under wise and anxious guidance. Much has been done to overcome handicaps and in due course, without disturbing police traditions which have firm roots, the College will be made to succeed.

SIGNATURE OF NOTICES AGAIN

Our short article at p. 292 *ante* upon the signature of the notice of intention to apply to justices, where it is desired to take advantage of the Small Tenements Recovery Act, 1838, has produced some interesting correspondence. We welcome the letter from the Town Clerk of Slough, printed in this issue, as a reminder that many local authorities have a standing order based upon one of the model standing orders (set forth in *Lumley*) requiring that documents which are intended to be the foundation of legal proceedings shall be signed by the clerk of the local authority. We have no such desire as is attributed to us in another letter, also published in this issue, to twist statutory provisions, or the effect of decisions of the courts, in such a way as to support this standing order, but we take the opportunity of saying that, in our own experience, we have found the practice enjoined by the standing order to be salutary—this, both from the point of view of protecting private persons (and especially the poorer and less educated of those with whom the local authority has dealings) from receiving documents not justifiable in law, a mischief of which we have seen deplorable examples, and also for the protection of the local authority itself, when steps which it has taken come eventually under the scrutiny of a judge of the High Court. We share the doubt expressed in that letter, whether s. 86 of the Housing of the Working Classes Act, 1890, which by two successive consolidations, in 1925 and 1936, has now become s. 164 of the Housing Act, 1936, was originally intended to catch notices to quit, but that doubt is not now relevant, since the High Court has held that it does catch them.

The letter last mentioned picks up an incidental statement in our former article, namely, that a notice to quit is not in the strict sense a notice " under " the Housing Act, 1936, so as to be governed by s. 164 (2) of that Act. Although our correspondent suggests that this statement is inconsistent with Lord Goddard's judgment in *Becker* v. *Crosby Corporation* [1952] 1 All E.R. 1350 ; 116 J.P. 363, the statement is perfectly correct. A notice to quit is a step made necessary by common law and it is only by an extended use of language, in truth, rather a loose use, that it is said to be issued " under " any Act. Perhaps the proposition " under " is itself a little loose in this usage : we fancy that the draftsman of a century ago would have been much more likely to say " in pursuance of," or " in accordance with," or " for purposes of," all of which prepositional phrases are nowadays frequently replaced by " under." There was, therefore, nothing surprising in Lord Goddard's saying that the notice to quit was a notice under the Housing Act, 1938 ; it was a notice given for the purposes of that Act, which purposes include the eviction of one tenant to make room for another : *Shelley* v. *London County Council* [1948] 2 All E.R. 898 ; 113 J.P. 1. We had something to say upon this point in the final paragraph of an article entitled " The Vanished Tenant " at 115 J.P.N. 213. The modern, wide, colloquial, use of the preposition " under " can be traced at least to *Van Grutten* v. *Trevenen* (1902) 87 L.T. 344, cited at 115 J.P.N. 422. The notice to quit which was before the court in that case was issued by virtue of (or under) the common law, to put an end to an agricultural tenancy, and was held by the High Court to be a notice " under " an Act prescribing special methods for serving notices relating to agricultural tenancies—one of the Acts which were predecessors of the Agricultural Holdings Act, 1948. This decision of fifty years ago thus supports that given in *Becker* v. *Crosby Corporation*, *supra*, and the advice we gave at p. 292, *ante*, to the effect that the notice of the intention to apply to justices, which has to be served in compliance with the Small Tenements Recovery Act, 1838, should also be treated as " under " the Housing Act, 1936.

Against our own view, we shall in a week or two be publishing an article by the assistant solicitor to the council of a non-county borough, where it seems that the practice has been the same as (we infer from our Birmingham correspondent's letter) it has been at Birmingham. In presenting this considered view by a legal correspondent, as well as the letter from our Birmingham correspondent, for consideration by our readers, we think it right to say that the very arguments in the assistant solicitor's article had been before us. We had had the advantage of perusing opinions by counsel specially experienced in matters relating to the Small Tenements Recovery Act, 1838, and the Housing Act, 1936, one of which opinions regarded Lord Goddard's reasoned judgment as being applicable to both the notices which are necessary where the Act of 1838 is being used (namely, the notice to quit and the notice specifically required by that Act, while the other opinion thought the notice of intention could be distinguished. It is true (as is said in the article we are about to publish) that the Act of 1838 is not incorporated with the Act of 1936, nor is there any statutory direction that they are to be construed together. Nevertheless we remain of the opinion that it is much the safer course for local authorities, to treat *Becker* v. *Crosby Corporation*, *supra*, as applying to both notices. What puzzles us is why it should be thought worth while to continue acting upon a different view, unless this be from some notion of prestige attaching to the signing of documents by persons other than the clerk of the local authority. There seems no practical reason. The number of notices to quit, or notices required by the Act of 1838, falling to be signed on any day or in any week, on behalf of even the largest local authority, can not be so great as to impose a serious burden on the clerk of the local authority or the deputy clerk, and, as we pointed out at 116 J.P.N. 680, it is always possible to authorize a deputy to sign. For either the clerk or deputy, such an authority had better be given under seal, for reasons to be found in the forthcoming article by an assistant solicitor ; it must be in terms which satisfy s. 7 of the Act of 1838 and the decision in *Bailey* v. *Hookway* (1945) 109 J.P. 69, cited in our article just mentioned—it must, that is to say, give authority " to act in the particular matter," but it would be simple, as soon as it was known that such notices might have to be served in the next month, to list the cases in a resolution under seal. This could be a routine procedure at a certain point in every council meeting. While the point is obviously capable of argument (how few points of law are not) we do feel entitled to repeat that, from the local authority's point of view, there seems everything to gain and nothing to lose by having both notices signed in such a way as to satisfy s. 164 of the Act of 1936, as well as having the notice of intention signed by an " agent " within the meaning of s. 7 of the Act of 1838. The point is just of the kind which the legal advisers of an unsatisfactory tenant might feel it their duty to put forward, when they found that their client had no defence on merits against the local authority's proposal to evict him. Once again, it is a matter where one side has everything to gain and nothing to lose : such a tenant can by putting forward such a technicality delay his eviction for weeks and it may be months, at little or no cost to himself. It seems a pity for local authorities to give him the opportunity of doing so, for no other reason (so far as we can see) than reluctance to change a practice which has grown up in their office.

RATES AND THE WELFARE STATE: THE POINT OF NO RETURN

By R. E. C. JEWELL

The national Budget is annually preceded by the presentation of many smaller budgets in the council chambers of local authorities. Up and down the country chairmen of finance committees have sought, and in most cases obtained, increases in the rates which are to be the highest ever levied. On March 3, 1953, the London County Council, which is the largest local authority in the world, agreed to a rate of eleven shillings in the pound—an increase of 1*s.* 9*d.* and the highest ever levied. This increase will be reflected in the rates to be levied by the metropolitan boroughs, who collect the L.C.C. precept. The council's proposed expenditure on education accounts for the equivalent of a rate of just under 5*s.* 6*d.* in the £, or nearly half the total rate. On the same day the Essex County Council agreed to a rate of 17*s.* 5*d.* in the pound, an increase of 2*s.* 1¾*d.* and the highest ever levied. The chairman of the finance committee said the main reason for the increase was the extra money needed for education, which was largely due to the influx from London to the new housing estates in the county. On February 23, 1953, the Middlesex County Council agreed to a county rate of 13*s.* 8*d.* in the pound, an increase of 2*s.* 8*d.* and the highest ever levied. On the same day the Manchester City Council fixed the rate at 23*s.* 6*d.* in the pound, an increase of 2*s.* and the highest ever levied in the city. Similarly the Salford City Council is to levy a rate of 25*s.* in the pound, an increase of 1*s.* 6*d.*

Enough examples have been given to demonstrate that local taxation has reached an alarming peak in many parts of the country, irrespective of the nature of the political control of any particular council. So much expenditure is now concerned with the execution of statutory obligations to prescribed standards that rising costs are bound to force up the rates. Explanations or excuses are made according to the political colour of chairmen of finance committees but some of their pronouncements are instructive, if they can be stripped of the inevitable propaganda with which they are associated. Thus, the chairman of the Middlesex County Council Finance Committee said on February 25, 1953:

"The cost of the new welfare state is now upon us and is mounting to such huge sums that at last the ratepayers will begin to realize what it means to subsidize the social services. Every phase of our public life is regulated and planned and at the mercy of some Government department. We know they in turn are only following the edicts laid down by past legislation, a good deal of which has caused heavy expense without much increase in efficiency or benefit. . . .

"One reason for the difficult situation is the slow rate of building and therefore the almost static rateable value. The main class of building has been the council house, which is a heavy burden on the community and produces relatively little rateable value to offset increased expenditure. . . .

"Some services are children of Government departments. An example was the Home Office dictation as to what we shall or shall not do at our approved schools. The result is a cost of £6 8*s.* 9*d. per week* per boy, and to make them barely distinguishable from some public schools. The same Home Office dictates the requirements of the fire brigade. In education, I believe every endeavour is made by the education committee to keep down costs, but again, the high standards demanded by the Ministry of Education are often beyond the control of the Council."

The leader of the opposition replied:

"Is the chairman suggesting that the council would lower the standards if not controlled by the Minister? Does he mean to imply that we would provide less ambulances if we were free from control or less fire cover, or that we would or could cut the cost of our approved schools? The increase in interest rates would cost the council £67,000 for the coming year and will grow in each subsequent year. . . ."

The following week, the vice-chairman of the finance committee of the London County Council explained the possible effects on local government finance of recent governmental changes regarding borrowing, as he interpreted them. Until January 1, local authorities had to borrow entirely from the Public Works Loan Board. Now the Government has authorized the use of the open money market as a supplement. Local authorities are spending on capital account at least £400 millions a year, and their arrival as competitors in the market may mean an insufficiency of funds and a steep rise in interest rates.

Local authorities have today so many statutory obligations and are now so dependent on government grants that many consider them to be little more than agents of the central government. It is, however, doubtful whether the financial relationship between local and central government could be reformed so that local autonomy could be completely restored. The complete abolition of local taxation or rates would unfortunately have the effect of making the local authorities even more subservient, as the grants system would then have to be extended.

All political parties are apparently agreed on the preservation and continuance of the services provided in the welfare state. The two chief services administered by local authorities in this country are housing and education: under the system which connotes the preservation of the welfare state and the continuance of the existing rating system, we appear to have reached the point of no return. In view of the misconceptions which undoubtedly exist, it is proposed in conclusion to examine the education service in the light of the expenditure upon it by local education authorities.

The Education Act, 1944, reformed the entire structure of public education in England and Wales, the visionary aim of the Act being to provide secondary school education for all from the age of eleven onwards according to age, aptitude and ability. But whatever system of education had been adopted, even if the old system had been left unreformed, it is clear that post-war expenditure would in any event have been heavy, unless education was to be regarded as of little or no account. Furthermore, the Act provided for the immediate raising of the school-leaving age to fifteen, with provision for it to be increased to sixteen at a later date. This has partly accounted for the increased cost of education and another factor has been the immediate post-war population "bulge," which is now being reflected in heavy demands on education budgets, particularly as regards primary schools.

Many valid criticisms can doubtless be made of the present educational system. Controversy may rage on the desirability of "free activity" methods, the use of intelligence tests, and the increase in illiteracy of school leavers. In some cases, money may even be wasted; holes can be picked; reforms and

economies (in the best sense of this word) can be made. Nevertheless, when all is said and done, the education service is vital and the vast majority of current expenditure upon it necessary ; there is even a case to be made out for increased expenditure in some respects. For example, it is educationally desirable that the numbers of classes should be reduced, that drab school buildings should be liquidated at a far greater rate and that more money should be spent on research.

Enough has been said, it is hoped, to justify, in the main, national and local expenditure on education. Similar justifications could be made in the case of deprived children, health and welfare ; it is submitted that expenditure on housing is universally admitted to be necessary in view of the housing shortage, although there is, of course, plenty of scope for argument about methods. There is, therefore, no simple panacea to arrest the rise in rates to the highest level ever achieved. At a time when costs have risen steadily for eight years, the most that can be hoped for in the immediate future is that local taxation should be " frozen " at the level agreed for the financial year 1953/4.

THE THREAT TO BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

By PATRICK STIRLING, *Barrister-at-Law*

In recent weeks both Houses of Parliament have debated the present threat to our unique buildings of historic or architectural interest. These buildings are a precious national asset and the justification for prompt government action was well put in a paragraph of the report of the Gowers Committee, which runs :

" It is not too much to say that these houses represent an association of beauty, of art and of nature—the achievement often of centuries of effort—which is irreplaceable, and has seldom, if ever, been equalled in the history of civilization. Certainly nowhere else are such richness and variety to be found within so narrow a compass. In the words of another witness ' the English country house is the greatest contribution made by England to the visual arts.' "

The threat is immediate, for already some sixty houses of great historic interest have been pulled down and another one hundred are threatened. The powers given to local authorities in this matter are not great and are mainly negative in character, but wise and timely action by a local authority may prevent some grosser forms of vandalism, while it is in their power to remind owners, where necessary, of the historical background of the properties in question and to suggest appropriate methods of repair and maintenance. The need to keep abreast of the times is illustrated by an experience of the National Trust for Scotland told by the Earl of Wemyss and March to the House of Lords. That Trust had lately undertaken the preservation of the oldest house in Aberdeen, known as Provost Ross's house. Provost Ross was not the builder of the house, but lived in it during the reign of Queen Anne and died in 1714. A short time ago the Inspector of Taxes telephoned the National Trust for Scotland to inquire whether Professor Ross was still occupying the house, since the Trust took over ! Local authorities are criticized from time to time either for allowing the demolition or for themselves demolishing a building of historic or architectural importance, but it is sometimes overlooked that the ability of a local authority to secure the preservation of such buildings is largely governed by the amount of money which can be expended from public funds : this factor may lead necessarily to a policy of concentrating on giving assistance in the preservation of the most striking examples of period buildings.

The Government have now published the text of the Historic Buildings and Ancient Monuments Bill. This Bill provides for the setting up of three Historic Buildings Councils to advise the Minister of Works on the exercise of the powers, which it is proposed to confer upon him, of making grants for the preservation of buildings of outstanding historic or architectural interest and of acquiring such buildings. The power of making grants towards the upkeep of historic buildings may, in certain circumstances, include a grant towards the upkeep of any land held with such building and forming part of the amenities and a grant towards the repair or maintenance of any objects normally kept in the building.

Clause 5 of the Bill authorizes the Minister of Works to buy by agreement or to accept as a gift such buildings and to buy or accept the contents where the buildings are under his control, management or guardianship or are vested in the National Trust. The Minister will be required to consult with the appropriate Historic Buildings Council before he exercises those powers of making grants or of purchase. It is expected that the expenditure on grants will be of the order of £250,000 a year initially and that expenditure on purchases will not exceed £500,000 in the first five years. Part II of the Bill amends the Ancient Monuments Acts of 1913 and 1931 and introduces special Parliamentary procedure for the confirmation of a Preservation Order and makes provision for compensation to be paid where such an Order injures the interests of any person.

It will be appreciated that buildings of special architectural or historic interest include ancient monuments for which there is separate legislation in the form of the Ancient Monuments Acts, 1913 and 1931. The preservation of these monuments is the responsibility of the Minister of Works and, in certain cases, of local authorities. " Ancient monument " is defined for the purpose of these Acts as including any monument specified in the schedule to the Ancient Monuments Protection Act, 1882, any monument listed by the Minister of Works under s. 12 of the Act of 1913, and any other monument which the Minister of Works considers to be of a like character or the preservation of which is, in the opinion of the Minister, a matter of public interest by reason of the historic, architectural, traditional, artistic, or archaeological interest attaching thereto.

The Town and Country Planning Act, 1947, provides machinery for protecting buildings included in certified lists and contains certain financial provisions of a limiting character. Section 30 regulates the compilation of lists of such buildings. The owner and occupier are informed that their property is included in the list and, in the absence of urgent necessity, two months' notice to the local planning authority is then required before any works for the demolition, alteration, extension, or repair of any part of the building is carried out by any person. On the day after the two months' notice has expired, the work may be begun unless a building preservation order has become operative or unless planning permission is needed, which may be made necessary by a direction under art. 4 of the Town and Country Planning (General Development) Order, 1950. Certain classes of development are permitted under art. 3 of the General Development Order, 1950, which may seriously affect buildings of architectural or historic interest. Extensions and alterations

within the curtilage of a dwelling-house, erection of gates or fences, and the painting of façades are all, subject to certain conditions, allowed without the permission of the local planning authority. In the case of buildings on the statutory list of buildings of architectural or historic interest, a direction restricting this permitted development can be made under art. 4 of the Order without the need of approval by the Minister of Local Government and Planning. This will ensure that planning consent is obtained before any such development is carried out, and the two months' notice required under s. 30 of the Act of 1947 gives time for this direction to be made. With regard to other buildings which have architectural qualities as a group, however, no such notice is given and the work can be carried out without any notification to the planning authority. The large number of such groups in some localities makes it impracticable to safeguard them all by an immediate direction under art. 4, and this difficulty has yet to be overcome.

To ensure more positive protection, a building preservation order may be made in respect of a building under the provisions of s. 29 of the Act of 1947. The making of an order does not in itself attract compensation, but, subject to the conditions of the order, compensation may be payable owing to refusal of consent under the order or granting of consent with conditions, where in either case the owner claims that the beneficial use of his land would be detrimentally affected. Section 41 of the Act of 1947 empowers the Minister of Housing and Local Government to authorize the compulsory acquisition by a local authority of any building for which a building preservation order is in force, if he considers that reasonable steps are not being taken to preserve it. The section also authorizes the Minister of Works to acquire such a building compulsorily. A building preservation order cannot be made under s. 29 in relation to an ecclesiastical building used for the time being for ecclesiastical purposes, or for any building already preserved under the Ancient Monuments Acts, 1913 and 1931.

As has been pointed out, however, a " preservation order " is not, in fact, what the term would suggest : it is, in substance, an anti-demolition order and nothing more. Neither the local authority nor the Minister can insist that the building, in respect of which a preservation order has been made, be kept in repair. Fine buildings in respect of which such an order has been made have been allowed to rot and decay, until it was a foregone conclusion that an application for a demolition order would be granted. It seems that acquisition or guardianship by the Minister or local authority is the only sure safeguard. It is against this background that the proposals of the Government must be judged : the sums of money at present indicated as likely to be available can ensure no more than a modest start.

It is worth while to consider two passages from the Report of the Gowers Committee, which sought to deal with the financial implications of a bold policy of preservation and maintenance. In the first the Committee stated :

" The straightforward remedy, therefore, is to exempt from income tax and surtax so much of his income as is reasonably necessary to maintain the house."

And then again :

" The law ought to recognize expressly the special position of houses of outstanding historic or architectural interest as a national asset, just as it has recognized in certain respects that of ancient monuments and works of art. The preservation of these houses is a matter of public concern. Those who undertake it are doing what is not the less a public service because it may happen to coincide with their private interests. We think that relief should be direct and express. We recommend that all owner-occupiers of designated houses should be allowed an enlarged maintenance claim of the sort we are about to describe, provided that they show their house to the public in accordance with arrangements approved by the Historic Buildings Council."

It has been said that to implement these recommendations would create a new privileged class. The proposals of the Committee envisaged, however, that the property would be taken out of the hands of the owner occupier and placed in the hands of trustees, in a rather similar fashion to schemes operated by the National Trust, who become the new owners. Under such a scheme relief from death duties would be given on the house and endowment so long as the property remained unsold ; if the house and grounds are subsequently sold, duty would be payable by the Trustees as has been the case with historic chattels since 1910. Such a scheme would do much to meet the criticism of the kind to which reference has been made. As was recognized by Lord Silkin, such a proposal does not contain the same kind of psychological objection as a straightforward large scale relief made direct to owner occupiers.

Meanwhile a serious and progressive loss of historic houses has continued : the financial burden of bringing the process to a halt is not light. The cost of implementing the recommendations of the Gowers Report has been estimated at £10 million a year, and it seems unlikely that any Government in the present economic condition of the country will in the foreseeable future be prepared to make such a sum available. This should not, however, prevent an immediate start, however modest : meanwhile it will be the duty of every interested party to make sure that no priceless treasures are allowed to fall into decay or to be demolished without the fullest possible investigation into methods whereby the building might be preserved. These buildings can never be replaced. As Lord Methuen has put it " Taken as a whole they are an irreplaceable assembly of the creations of architects and craftsmen over the greatest period of our history. To fritter away these things would be to damn our generation in the eyes of all those who see in these structures a living expression of our history and something of immense educational value, not to be lost without a fight."

We must do our utmost to hold on to and to preserve the great artistic achievements of our race.

ADDITIONS TO COMMISSIONS

EAST SUSSEX COUNTY

John Charles Edwin Buckwell, 11, Pellbrook Road, Lewes.
Mrs. Dorothy Chisholm, St. Andrew's Vicarage, Church Road, Portslade-by-Sea.
Mrs. Vera Gladys Cumberlege, Idlehurst, Birch Grove, Haywards Heath.
Adrian Francis Drewe, Oakover, Ticehurst, Wadhurst.
Albert Edward Cleveland Paulin, Septima, Fulking.
Mrs. Anne Kathleen Waller Routh, East Hoathly, Lewes.
Major Lyle Cooper Schlotel, 22, Capel Avenue, Peacehaven.
Anthony Sulman, Sandown School, Bexhill.
Mrs. Marjorie Lister West, Holmside, Ewhurst, Robertsbridge.
George Woodfine, Beech Court, Little Common Road, Bexhill-on-Sea.
Captain Lord Rupert Charles Montacute Larnach-Nevill, Uckfield House, Uckfield.

WEST SUSSEX COUNTY

Miss Sheila Elaine Elder, Highcroft, Bramber.
Arthur De Berdt Hovell, Elmlea, Park Drive, Rustington.
Henry Izard, Pond House, Slindon.
Lieut.-Col. Richard George Muir, Idehurst, Wisborough Green, Billingshurst.
Mrs. Joan Enid Paterson, Box Tree Cottage, Rustington, nr. Littlehampton.
John Edward Reginald Wyndham, New Grove, Petworth.

WILTS COUNTY

Albert James Sylvester, C.B.E., Rudloe Cottage, Box, nr. Chippenham.

THE NEW TOWNS

Attention has once more been drawn to progress in the New Towns by the presentation of the New Towns Bill, 1953, by Mr. Macmillan, Minister of Housing and Local Government. The Bill, which by the time we go to press should have received a second reading, enables advances under s. 12 of the New Towns Act, 1946, as amended by the New Towns Act, 1952, to be enlarged from £100 million to £150 million.

In 1952 the New Towns Act of that year which became law only about a year ago increased the aggregate amount of the advances which might be made by £50 million to a total of £100 million.

The Act of 1946 provided £50 million for advances to Development Corporations in Great Britain out of sums issued from the Consolidated Fund to enable them to defray expenditure properly chargeable to capital account including the provision of working capital. At that time expenditure amounting to £42 million had been approved largely for housing and it was expected that the total would reach £50 million by the end of July, 1952.

That the extra funds voted by Parliament by the Act of 1952 have run out so quickly is evidence not only of the speed-up of building tempo in the New Towns but also probably of the rising costs of building materials and labour.

The New Towns were for the most part designed to promote the re-deployment of industry and population from congested urban areas. In the Home Counties eight sites were chosen within a thirty-mile radius of Charing Cross to house the homeless from the bombed areas of London. According to the Master Plans of the Designated Areas approved by the Minister a population of 416,000 is to be re-housed in the new areas which are being created.

New Towns were slow starters in producing houses. This is understandable because so much initial surveying and preliminary work had to be undertaken before the schemes could get into their stride.

In March last only 10,000 houses had been occupied, but under the present government's housing drive there was in 1952-3 an abrupt increase in the tempo of house building, so much so, in fact, that the ancillary services, *e.g.*, schools, got somewhat left behind. As a large proportion of the newcomers attracted into the New Towns are young married couples with young families this particular problem becomes of unusual importance compared with the less prolific communities.

New Towns, although they embody a valuable experiment in planning and design, and have produced many interesting and attractive styles of architecture, are a most expensive way of building houses.

In some cases they are built from a practically scratch start, *i.e.*, water supplies, sewerage, highways and all the other services have to be provided *de novo* and so in the very nature of things they are bound to be expensive compared with house-building sites which have these capital assets to some extent available to start with.

One of the principal objects of the New Towns schemes in the Home Counties Area was to enable the de-congestion of the crowded conditions of the Metropolis. The extent to which this object is being effectively fulfilled is highly doubtful.

The original so-called linkage schemes which affiliated particular London areas damaged by the bombing with specific New Towns have largely broken down because the personnel of the factories attracted into the New Towns very likely come from quite different areas of London. What in practice happens is that a factory owner who has decided to move his factory from London to one of the New Towns has to sell his old factory and site to another manufacturer who promptly moves into the site which he has vacated. In such cases the amount of de-congestion effected in London is practically negligible. The best way in which de-congestion can be accomplished is by a scheme to induce housing authorities to acquire factory sites vacated by factories moving to New Towns and then to build on them. We understand that the Minister of Housing and Local Government is considering schemes of financial inducement to local authorities with this end in view.

It is, moreover, very difficult to persuade the owners of agricultural land which is being acquired in New Town areas that London is really short of building land if he sees great tracts of bombed sites which are left unbuilt upon.

The question of attraction of industry is one which still occasions worry in many of the New Towns. As each of the New Towns is designed to be a self-supporting and self-contained unit a sufficiency of factories is essential to their needs. At Crawley and Harlow they are getting the industries but in many of the others there is a great deal of anxiety on this question. They are doubly anxious because it is on the rents of the factories that the financial stability of the Towns depends.

On the human side there is no doubt that the newcomers are grateful for their new houses in the New Towns, some of which are very attractive although the external appearance of others leaves much to be desired. On the other hand the transition from the friendly although crowded areas from which they came in London to the latest conceptions of modern town planning is an abrupt one. There is an atmosphere of unreality in some of the New Towns. In the shopping centre of one of them the spectator gets the strong impression that he is standing in front of the drop-scene in a theatre such is the effect of the lay-out of the shops with their colonnades and pale blue tiles. All very different from the close quarters of Tottenham or Edmonton !

Indeed the more spacious lay-outs of the New Towns planned on Garden City lines in accordance with the traditions inspired by Ebenezer Howard have caused some heartaches amongst the housewives in New Towns. The shopping centre seems very far away and no buses run outside the door like they used to up in London ! How are the old inhabitants of the New Town areas receiving the change ?

New Towns certainly made a great alteration in their native surroundings. Some of the New Towns (*e.g.*, Crawley, Hemel Hempstead and Stevenage) were already sizeable country towns but the new developments will entirely change their character. Others (*e.g.*, Harlow) were only very small country towns and the impact of the Development Corporation has been heavy in such agricultural areas whose previous inhabitants were countrymen carrying out rural pursuits.

Town and country have been mixed with a vengeance in such areas and two vastly differing groups of people have been thrown into contact with one another by the force of events. They find it very difficult to coalesce in such circumstances and it is not surprising having regard to their opposite backgrounds.

The powers of compulsorily acquiring the land for the New Towns has meant the expropriation of landowners and farmers and country shopkeepers with compensation often on somewhat unfavourable terms. This factor has made the public relations of Development Corporations delicate, but on the whole it is true

to say that the New Town areas are settling down and we are beginning to see now some of the physical results of all the planning.

In a recent debate in the House of Lords it was authoritatively announced that the Government would not consider building any further New Towns. It is up to the existing New Towns to justify their claims to be *the* shining examples of planning in the new Elizabethan era. Probably cheaper results can be obtained by higher density building; and certainly it is desirable for Town centres to be developed without delay because a corporate pride and spirit cannot develop in the New Towns without them. Whilst many of the architectural styles are excellent some fall below this high standard. They should not be repeated but on the contrary the architects should redouble their efforts to produce styles of architecture which do credit to what we intend shall be a new golden age in British culture.

WEEKLY NOTES OF CASES

HOUSE OF LORDS

(Before Lord Porter, Lord Oaksey, Lord Reid, Lord Tucker and Lord Asquith of Bishopstone)

PRESTON AND AREA RENT TRIBUNAL *v.* PICKAVANCE

April 14, 15, June 25, 1953

Rent Control—Security of tenure—Power to extend period—Notice to quit given more than three months after decision of tribunal—Furnished Houses (Rent Control) Act, 1946 (9 *and* 10 *Geo.* 6, *c.* 34), *s.* 5—*Landlord and Tenant (Rent Control) Act*, 1949 (12 *and* 13 *Geo.* 6, *c.* 40), *s.* 11 (1); *s.* 11 (2) (*b*).

On September 8, 1950, a tenant having referred his contract of tenancy of a furnished house to a rent tribunal under the Furnished Houses (Rent Control) Act, 1946, and the Landlord and Tenant (Rent Control) Act, 1949, the tribunal gave a decision approving the rent and giving no direction as to security of tenure. On December 9, 1950 (*i.e.*, three months and one day after the tribunal's decision), the landlord served on the tenant a notice to quit expiring on December 18. On December 9, on being served with the notice, the tenant applied to the tribunal under s. 11 (1) of the Act of 1949 for an extension of his period of tenure, and on January 19, 1951, the tribunal made an order extending that period, and subsequently made further orders granting extension.

Held: although s. 11 of the Act of 1949 was (by virtue of s. 11 (5) thereof) to be construed as one with the Act of 1946, it did not follow that " notice to quit " in s. 11 (1) must refer to the notice with which s. 5 of the Act of 1946 was concerned, namely, a notice to quit served by the lessor at any time before the decision of the tribunal or within three months thereafter; s. 11 applied to any case where a notice to quit had been served and the period at the end of which it took effect had not expired; and, therefore, the tribunal had power under s. 11 (2) (*b*) of the Act of 1949 to grant the extension of tenure which they had ordered.

Decision of the Court of Appeal (sub nom. *R.* v. *St. Helens and Area Rent Tribunal. Ex p. Pickavance*) (1952) (116 J.P. 373) reversed.

Counsel: *The Attorney-General (Sir Lionel Heald, Q.C.), J. P. Ashworth*, and *R. J. Parker*, for the appellants, the tribunal; *Fox-Andrews, Q.C.*, and *J. C. D. Harington*, for the respondent.

Solicitors: *Solicitor, Ministry of Health*, for the appellants; *Neve, Beck & Co.*, agents for *Joseph Davies & Son*, St. Helens, for the respondent.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Lord Merriman, P., and Collingwood, J.)

FOSTER *v.* FOSTER

June 4, 5, 8, 1953

Divorce—Desertion—Constructive desertion—Conduct equivalent to expulsion of other spouse—Conduct falling short of cruelty.

Res Judicata—Husband and wife—Persistent cruelty—Dismissal of summons—Fresh summons on ground of desertion.

On August 29, 1952, the wife issued a summons against the husband, under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, charging him with persistent cruelty to her on divers occasions before and on August 16, 1952. On September 3, the summons was served on the husband. On September 4, the wife left the matrimonial home. On September 17, the justices dismissed the summons. On October 24, the wife issued further summonses before a different court of summary jurisdiction charging the husband with desertion as from September 4, and wilful neglect to maintain her. At the hearing on November 16 she gave evidence similar to that which she had given in the earlier proceedings but stated also, *inter alia*, that on or about September 4 the husband had said that he had finished with her, and that on August 28 he had hit her and she had left the house for the night. On November 16 the justices made an order in favour of the wife.

Held: since the issue decided on September 17, 1952, was different from that before the justices on November 16, on the latter date the wife was not estopped *per rem judicatam* from giving evidence similar to that given in the first proceedings; further, although the wife had not been able on the same evidence to make out a case of constructive desertion, she was entitled to give evidence of other acts justifying her leaving home; there was evidence of other acts from which the court could find that the husband's conduct, being of a different kind from and not merely less than cruelty, justified the wife in leaving the matrimonial home; and, therefore, the wife was entitled to a maintenance order.

Observations of Bucknill, L.J., in *Edwards* v. *Edwards* (1949) (113 J.P. 383) and of Hodson, L.J., in *Pike* v. *Pike* ([1953] 1 All E.R. 232) applied.

Counsel: *D. E. Peck* for the husband; *Boydell* for the wife.

Solicitors: *Langhams & Letts*, for *Hart, Scales & Hodges*, Dorking; *Pringle & Co.*, Redhill.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

I was very interested in the article on the Signature of Notices under the Small Tenements Recovery Act, 1838, p. 292. I particularly agree with your submission that it is better for all notices emanating from a local authority which are likely to give rise to legal proceedings, to be signed by the clerk. I would mention in this connexion that one of the standing orders of the Slough Borough Council provides that " where any document will be a necessary step in legal proceedings on behalf of the Council, it shall, unless any enactment otherwise requires or authorizes . . . be signed by the Town Clerk."

Yours faithfully,
NORMAN T. BERRY,
Town Clerk.

Town Hall,
Slough,
Bucks.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

I have followed with interest the various articles appearing in your journal on the signature of notices served under the Housing Act, 1936, and the Small Tenements Recovery Act, 1838. From the latest article in the issue of May 9, it seems that the writer is prepared to adopt the most tortuous arguments in order to ensure that notices of whatever kind issued in connection with housing management are served by the clerk of the authority.

The latest argument is developed from the decision in *Becker* v. *Crosby Corporation*. In this case the Divisional Court held that the notice to quit which ends the tenancy must by reason of s. 164 (2) of the Housing Act, 1936, be signed by the clerk of the local authority or his lawful deputy. It is extremely doubtful whether those responsible for drafting the Housing Act, 1936, ever envisaged that s. 164 would be applied to a notice to quit, but intended that it should be applied to notices such as those required, for example, by ss. 9-12 of

the 1936 Act. Nevertheless, the decision of the Divisional Court now governs the matter.

Your article, however, uses this decision as the starting point for a very slender argument that the notices required under the Act of 1838 should also be signed by the clerk. The notice to quit having been duly signed by the clerk terminates the tenancy. The next stage is to apply the Act of 1838 in order to recover possession. It seems a very flimsy argument that because the first notice (which was, as you say, " under the Act of 1936 ") had to be signed by the clerk that the notice required by the Act of 1838 should also be signed by him. At this stage the following appear to be the salient points :

(*a*) The Act of 1838 itself lays down explicitly who should sign the notice.

(*b*) There is no direction that the Acts are to be read together and the two notices can be treated as two distinct steps.

With regard to (*a*) this notice must be signed by the owner or, when this is not possible, by the owner's agent, and the word " agent " is defined as a person normally engaged in collecting rents or otherwise managing the property. It seems crystal clear from this that the housing manager can quite properly sign it. In fact, your article goes so far as to admit that if the clerk were to sign it the notice might be challenged because he is not a person who comes within the scope of the definition. In order to preserve and extend the theory that the clerk must sign all notices and to anticipate the challenge just mentioned, you suggest that the local authority should pass a special resolution authorizing the clerk to sign notices under s. 2 of the Act of 1838. It seems to me that this is carrying things to absurd lengths, and creating a difficulty where none exists.

I was also intrigued by the following sentence in the article " It is true that it (the notice served under the Act of 1838) is not issued " under " the Act of 1936 in any precise sense, but neither is the notice to quit, which is issued under common law." This seems to me a flat contradiction of the decision in *Becker* v. *Crosby Corporation*, and if it were true would not the whole of your argument fall to the ground ?

Finally, I do not think any article in a legal or professional journal has ever offered such an exquisite compliment to a body of professional men as that contained in the final paragraph of the article. Here you say that the notice has to be served in a peculiar way but " all that is necessary here is for the person who serves it to be able to read, and to explain its purport to the person in occupation of the premises. The housing manager or a rent collector would be capable of doing this." Housing managers throughout the country will indeed be gratified to learn that they are considered capable of reading and even of explaining something to the person in occupation.

I, of course, am a mere laymen, but one with an interest in the practical application of these points. I do hope that this passion for tortuous and involved safeguards will not be carried to such excessive lengths as you now suggest.

Yours faithfully,
J. P. MACEY,
Deputy Housing Manager
City of Birmingham.

52 St. Bernards Road,
Olton,
Birmingham.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

HOUSING ACT OR PUBLIC HEALTH ACT

In an article published on March 28, 1953, p. 204, your contributor, Mr. J. A. Cæsar, suggests that there may be some justification for the argument advanced on behalf of the respondent in *Salisbury Corporation* v. *Roles* (1948) W.N. 412, that, the Housing Act having provided for the demolition of unfit houses incapable of being made fit at reasonable cost, Parliament can never have intended that such houses should be dealt with instead under the statutory nuisance provisions of the Public Health Act. The article concludes that " . . . . it is difficult to determine . . . which provisions (if any) of the one Act can be taken as overriding or excluding the similar provisions contained in the other."

Has not your contributor overlooked s. 187 of the Housing Act, 1936, and s. 328 of the Public Health Act, 1936 ? The first-mentioned section provides that all powers given by the Housing Act are to be deemed to be " in addition to and not in derogation of any other powers conferred by Act of Parliament, law or custom " and that " such other powers may be exercised in the same manner as if this Act had not been passed. . . ." The other section in similar terms makes the powers given by the Public Health Act also cumulative. It seems

to me that these provisions make it clear that there can be no question of anything in the one Act overriding or excluding anything in the other, and that (legally at all events) the local authority is entirely free to choose under which Act it will proceed in any case where there is a remedy under both.

Yours faithfully,
B. D. HARROLD.

Town Hall,
Great Yarmouth.

Our contributor, Mr. J. A. Cæsar, writes: "No, I had not overlooked the two sections in question, and I agree with the views expressed in the last twenty-four words of Mr. Harrold's letter. The point I was getting at in the concluding paragraph of my article was that the court might have to determine, in a particular case, whether the facts in that case give rise to a remedy only under one Act and not under the other (*e.g.*, whether, in the case of a dwelling-house which cannot be repaired at reasonable cost, the defects are of such a nature as can properly be taken into account when considering whether the premises are "in such a state as to be prejudicial to health or a nuisance" for the purposes of Part III of the Public Health Act, 1936), in which event the difficulties envisaged in my article of applying the normal rules for the construction of statutes might arise, and would not be overcome merely by reference to the provisions of the two sections quoted by Mr. Harrold; if, of course, a remedy does in fact arise under both Acts, then the two sections in question make it quite clear that the local authority can proceed under whichever Act they choose."

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

THE DEATH PENALTY

A Bill to suspend the death penalty for five years was rejected by the Commons by 256 to 195 votes.

Mr. Sydney Silverman (Nelson and Colne) asked leave to introduce the Bill under the Ten-Minute Rule. He recalled the Commons' decision in 1948, by a majority of twenty-three, that the death penalty should be suspended for five years. That proposal was then defeated in the House of Lords. A new Clause to meet the difficult and exceptional cases raised in the Lords was then passed by the Commons but rejected by the Lords who felt that it created more anomalies than it cured.

"We were therefore brought back to the view that this question could be settled daily on the general overall basis by a simple trial, experimental period of doing without this thing in this country for five years, as nearly every country in Europe has done without it for so many years past without any visible or provable harm," said Mr. Silverman.

The Royal Commission on Capital Punishment held their last sitting to hear evidence nearly two years ago, and had been considering their report ever since. That report would be irrelevant to the present question, because abolition or suspension of the death penalty was expressly excluded from their terms of reference.

Mr. Silverman went on to speak of the finality of the death sentence. If we made a mistake there was nothing we could do to recall our error. He believed that a great many people who otherwise might have opposed the death penalty were influenced in their vote by the view that such a mistake was a virtual impossibility.

"This week we have had completely established that a case was made against a man on a charge of murder; that it succeeded; that the appeal failed; the application for reprieve failed; the man was hanged." There were cries of "No" when Mr. Silverman added: "We know today that he was convicted and hanged on a false case."

He went on to say that there had been reports that Christie had since his conviction confessed to the murder of the Evans baby, and he called for a full and public inquiry into the case. But such an inquiry would be irrelevant to the question of the death penalty. It might prove Mr. Evans was entirely innocent or it might prove that Mr. Evans was guilty of the murder for which he was hanged. Even in the latter case, he would be convicted on a case which he had never heard and which he could never hear. He would be convicted on a case which denied the case on which the prosecution relied for his conviction at the trial. It would be an inquiry at which the principal witness would be forever silent. It was not right, even if a man was ultimately proved to be guilty of such a thing, that he should pay for a crime on evidence which everyone now knew was evidence on which no reliance ought to be placed.

Mr. Silverman concluded by saying that we had no right, until human judgment was infallible, to pass and execute an irrevocable doom.

Mr. H. B. H. Hylton-Foster (York) asked the House to reject the Motion because he was convinced that this was the wrong time to come to a decision upon that extremely important matter. He did not agree that the Report of the Royal Commission would be irrelevant.

He recalled that the 1948 debates ended with the House of Commons deciding that that was not the time for the suspension of the death penalty. If they were now to be required to reverse that decision as a matter of urgency, then there must be some urgent new factor. Where was it to be found?

He looked at the criminal statistics but he did not find there a reason for suspending a penalty which some people thought was a useful deterrent. He looked at the police establishment figures and he did not find any reason there. He did not believe there was any sudden upsurge of public opinion to show that it was yet attuned to or ready for suspension. Although the House must lead, in an important matter like that of the penalties imposed by the criminal law, they had to be careful to carry public opinion with them.

The new factor suggested was the case of Evans. He asked the House not to jump to the conclusion that he had been convicted on a completely false case. No one could try to form a view about the Evans case unless he had before him the whole of the material at one and the same time. If there was the slightest shadow of a scintilla of doubt on that case, he hoped the Home Secretary would have an inquiry. But until that was done, the House should not jump to any conclusion about that case.

On the Royal Commission, Mr. Hylton-Foster said that its terms of reference comprised how capital punishment should be limited or modified and, if so, to what extent. It followed that they could limit it, if they wished, right down to everything but zero.

"Capital punishment is to be justified if at all because people believe it to be a deterrent," he said, "and I for one, if I were asked to decide about this matter here and now, would urgently want to know what the conclusions of this Royal Commission were about whether it is a deterrent or not. They have been hearing evidence from policemen, from prison officials, from Professor Sellin on the matter, whether it is a deterrent or not, which anyone would want to know before arriving at a decision on this matter."

Later, the Under-Secretary of State for the Home Department, Sir H. Lucas-Tooth, told questioners in the Commons that the Home Secretary was informed that he might expect to receive the Report of the Royal Commission on Capital Punishment before the end of the month. It would be presented to Parliament and published as soon as possible thereafter.

Asked whether he would order a public inquiry into the Evans case, Sir Hugh said that the Home Secretary was giving urgent consideration to the matter, but he was not in a position at present to make any statement. In any event, he would not think it right to make any statement or to comment on the issues involved while it is still open to the prisoner Christie to appeal.

In reply to supplementary questions, he said that if there should be an inquiry, and it should appear desirable for Christie to appear before it, all necessary steps would be taken to secure that he was available for that purpose. If necessary, the date of execution could be postponed.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, June 30

LOCAL GOVERNMENT SUPERANNUATION BILL, read 3a.
NATIONAL INSURANCE BILL, read, 2a.

Thursday, July 2

EDUCATION (MISCELLANEOUS PROVISIONS) BILL, read 3a.

HOUSE OF COMMONS

Tuesday, June 30

NEW TOWNS BILL, read 2a.

Friday, July 3

HISTORIC BUILDINGS AND ANCIENT MONUMENTS BILL, read 2a.
POST OFFICE BILL, read 2a.
REGISTRATION SERVICE BILL, read 2a.

NOTICE

The next quarterly meeting of the Lawyers Christian Fellowship will be held at The Law Society's Hall, Bell Yard, W.C.2, on Monday, July 13, 1953, at 6 *p.m.* Tea will be available from 5.30 *p.m.* The meeting, to which all lawyers, law students and visitors are warmly welcomed, will take the form of a debate, the subject being "That the Church has lost its chance." The Chair will be taken by Mr. A. W. Brown. The debate will be open to all present to take part.

SOME POINTS ON LIBRARY LAW

Public libraries do not, fortunately, often figure in the law courts, but none the less those responsible for their administration find an occasion that library law is not quite as straightforward as may appear on first acquaintance. It is the purpose of these notes to endeavour to explain and clarify a few of the difficulties that may arise in practice.

(*a*) LIBRARY AUTHORITIES

The Public Libraries Acts, 1892 to 1919, under which local authorities operate, may be adopted by county boroughs, by county councils, by boroughs and urban districts, and by parish councils, and in London by the metropolitan borough councils and the City of London; in fact all kinds of local authority throughout the country, except the rural districts, may be library authorities. A county council may not take over library responsibility in a district which is an existing library area, and once a county have provided a library service, no district council or parish within the county can adopt the Acts; a county council may, however, rescind their resolution of adoption in favour of a particular district or parish and, similarly, a parish or district may relinquish their library functions in favour of the county council, but (in each case) subject to the approval of the Minister of Education. No powers of compulsion exist, however, to make the one type of authority surrender their powers in favour of the other.

(*b*) FINANCIAL MATTERS, etc.

The library authority may not make any charge for admission to a public library or museum, or for the use of a lending library by the inhabitants of the district (Public Libraries Act, 1892, s. 11), but the same provision expressly allows the common practice of taking a subscription from readers not living within the district. Taking a reasonable charge for special facilities, such as the reservation of "bespoken" books, or the sale of book lists, etc., is not, however, caught by the section. An admission fee may not be charged in respect of a museum, nor, it is submitted, would it be proper to charge a subscription (to "local" borrowers) in respect of a music, gramophone record or other special library, if the stock had been purchased under the powers of the Public Libraries Acts.

The position regarding fines for the non-return of books within the stipulated period is not free from doubt. It might be argued that a borrower, when he signs his application form to become a member and agrees to be bound by the library regulations, enters into a contract with the library authority and agrees to pay fines assessed upon him. The power to make regulations for the management and use of the library is contained in s. 15 (2) of the Public Libraries Act, 1892, but there is no power contained in that section (or elsewhere) to impose fines. It is further submitted that there can be no question of any contract, for no charge may be made for the use of the library, and it does not seem that the borrower has given any consideration for the promise of the library authority to admit him as a borrower. The question has not been tested in the superior courts, but it is submitted that a library authority would not be entitled to sue for fines as distinct from an action in detinue or conversion for the recovery of the book or its value. A defaulting borrower can, however, be excluded from enjoying the facilities of the lending library, if the regulations made under s. 15 so provide. Criminal proceedings may not be brought in respect of any breach of these regulations, although a prosecution may be brought for the breach of a byelaw made by the authority under s. 3 of the Public Libraries Act, 1901 (which byelaws are subject to confirmation by the Minister of Housing and Local Government, under Part XII of the Local Government Act, 1933). Misbehaviour by a member of the public in a library may be dealt with under the Library Offences Act, 1898, and in practice many authorities do not make byelaws, relying on the 1898 Act and their own regulations for preserving order and compliance with reasonable procedure.

(*c*) DEFAMATION

It seems generally established that a library authority may be liable for defamation if they contain in their stock a book or newspaper, etc., which contains libellous matter, as publication of a libel to be actionable need not be intentional. On the other hand, the plaintiff in such an action would have to prove that the library authority by themselves or their staff were negligent in including the book in their stock; in the well-known case of *Emmens* v. *Pottle* (1885), 16 Q.B.D. 354, a newsvendor was held not liable for a libel contained in a newspaper sold by him, as the jury held he was not negligent in failing to know of the existence of the libel. The more recent case of *Bottomley* v. *Woolworth & Co.* (1932) 48 T.L.R. 521 is a further example of the principle, while in *Vizetelly* v. *Mudie's Select Library* [1900] 2 Q.B. 170, the defendant circulating library were found guilty of negligence in that they should have known of the particular libel in question, and they were therefore held liable. The Defamation Act, 1952, has not changed the law on this point, but as a result of this statute, a further defence is open to the innocent disseminator of an unintentional libel, in that in a proper case the library authority may offer to make amends under s. 4 of the Act, by offering to publish a correction and apology in the library.

(*d*) LECTURES, ETC.

The giving of lectures or the holding of special exhibitions is not expressly provided for in the Public Libraries Acts, but most types of lectures are now covered by the Local Government Act, 1948. It has been suggested by Mr. Littlewood in his "Law of Municipal and Public Entertainment," that "entertainment" as used in s. 132 of the Act would include the giving of a lecture, and the payment of lecturer's fees, and, if so, such lectures may be given on library premises, provided that their normal library use is not thereby prejudiced; it is also submitted that if s. 132 may be so applied, a charge for admission to such a lecture could be made, in spite of s. 11 of the 1892 Act (above). Section 135 of the same Act empowers a local authority to give lectures, exhibitions, etc., on questions relating to local government, and it seems that these functions could be held on library premises.

There is no general power to let library rooms for lectures or to learned societies, but there seems little legal objection to the casual hiring, out of ordinary library hours, of small meeting rooms on library premises; some of the larger authorities have local Act powers on these subjects. If the interpretation of

s. 132 of the 1948 Act above mentioned is correct, the section would also enable a library authority to hire one of its rooms to a local organization for a public lecture.

Museums are regulated by, and may be provided under, the Public Libraries Acts; every library authority may provide a museum. There is no definition of "museum" in the Public Libraries Acts, and it seems that virtually any range of objects may be exhibited. Art galleries also may be provided under the Acts on the same basis, and in the library the authority may provide, as well as books and newspapers," specimens of art and science" (Public Libraries Act, 1892, s. 15); an expression wide enough to cover almost any object, from plaster casts of the heads of famous persons, to displays of tropical fish or rare botanical specimens. J.F.G.

ANIMAL CRACKERS

The denizens of the animal world, afflicted with the urge to self-expression, are again seeking notoriety in the pages of the press. Allusion has already been made in these columns to certain examples. Now, during the Coronation celebrations, the interest aroused by Mr. James Woodford's carvings of the Queen's Beasts, on the Annexe to Westminster Abbey, has stirred the emulation of other animals, who naturally see no reason why their heraldic brethren should keep all the fun to themselves. Democratic principles, they seem to say, should be applied in the animal kingdom as elsewhere, and equality of opportunity should be afforded to the rank and file as well as to the aristocratic officer-class. Falcons, griffins, unicorns and dragons have attracted the crowds, and had their praises sung in the correspondence columns of *The Times*; it is now the turn of the more commonplace types to press their claims.

This revolution—for no other description will fit the case—began with a newspaper article upon the blood-pressure of the giraffe. It is appropriate that this animal should leap to fame at the present time. The tallest of all mammals (eighteen feet seven inches in its bare hooves) is unlikely to be overlooked in any crowd, however dense, and the creature's height must have given it a rare advantage in the competition for a satisfactory view of the Royal Procession, however prolonged and exhausting must have been its search, at the best hosiers, for a smart wing-collar, of the requisite size, for the occasion. We have all heard of the child who, seeing at the Zoo a giraffe for the first time, signified her incredulity in the succinct phrase "I don't believe it!" The animal's hybrid appearance, which gave it the old name of "camelopard"; its long neck; its unwieldy body, which compels it to straddle the forelegs to drink; its top-gear speed of thirty miles an hour; and its eighteen-inch tongue, which yet leaves it almost voiceless—these characteristics make it an object of wonder to those who observe its physical characteristics alone. Now it is found to be not only anatomically but also physiologically unique. The medical specialists are concerned with the enormous pressure that must be required to pump the blood, from the heart through the arteries, to reach every extremity of the creature's body—a pressure, they say, which would inevitably kill most other mammals. We confess that we have never come across an instance of excessively high blood-pressure in a giraffe, nor have we had the opportunity of looking into the incidence of arterio-sclerosis among elderly members of the species; but then we cannot pretend to any close acquaintance with the subject. The problem, however, intrigues us, and we look forward to reading, in the pages of *The Lancet* or elsewhere, the results of the promised researches.

The second incursion into the news is that of a viperine snake, two feet long, which was recently found wriggling its way along the pavement of Crutched Friars, London, E.C.2. Inquiries showed that a reptile of this description was missing from an exhibition in Edinburgh, and the theory is that it had escaped and travelled by road or rail as a "stowaway." The choice of this method of transport in itself shows considerable acumen and resource; but the motive behind the voluntary change of domicil from the elegant surroundings of the Northern Capital to a grim and grimy Thames-side neighbourhood is difficult to understand. Dr. Johnson once remarked that "the noblest prospect a Scotchman ever sees is the high road that leads him to England"; can it be that this snake has read its Boswell, and that its proverbial subtlety has failed to see through the notorious prejudices of the Great Lexicographer? There must be some less obvious explanation, and we think perhaps it may be inferred that the sinuous reptile, having exerted itself in vain endeavours to tempt the dour, incorruptible, Presbyterian morality of the Scots, anticipated an easier task of subversion among the congenially wily and cold-blooded financiers of the City of London. Between the Monument and the Bank of England the Tree of Knowledge puts forth extensive branches, the fruit whereof has a peculiarly rich and attractive appearance, well-calculated to allure any guileless Eve or Adam who may venture unprotected into that speculators' paradise. An ambitious and energetic young serpent could wish for no more suitable environment.

The third news-item is of a very different order. From the Italian town of Piacenza comes the report of a lepidopterist who has found a novel method of catching butterflies. This ingenious person has discovered something that nobody before had suspected—that these light-hearted, fluttering creatures are passionately devoted to music. Whether this predilection is confined to the Italian species the report does not tell us; but it asserts that "Signor Cavanna has only to blow a few notes on the hunting-horn he carries and the butterflies come to him like moths to a candle." This is surprising enough; what is more astonishing is that the high standard of musical education in the butterfly world enables them to distinguish between one note and another of the gamut. There must be some subtle *rapport* between the chromatic variegation of those brightly-hued wings and the overtones of the chromatic musical scale. Their favourite is the E-flat; musicians will find this significant, for E-flat is one of the keys best-beloved of Mozart, whose life and activities, like those of the butterfly, were both dazzingly brilliant and tragically brief. This is the key of the great 39th Symphony of 1788, and of innumerable other instrumental works and vocal arias expressive of profound, heart-felt emotion. Clearly, the butterflies are in the best of company, and it is only to be regretted that their refined and discriminating taste should be the means of luring them to a premature end in Signor Cavanna's collection.

"I always thought," said the Unicorn (when Alice was presented to him in the words "*This* is a child!"), "I always thought they were fabulous monsters!" Some such paradoxical thought will no doubt pass through the minds of the Queen's Beasts if they should chance to learn of the exploits recorded here. Mutual respect would be enhanced if a meeting could be arranged between those extant creatures who have (so to speak) been mentioned in despatches, and their heraldic kinsmen, standing "very stiff and proud" on the Westminster Annexe. A *modus vivendi* between the two groups might be modelled on that between Alice and the Unicorn:

"Well, now that we *have* seen each other, if you'll believe in me, I'll believe in you. Is that a bargain?"

"Yes, if you like," said Alice.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Landlord and Tenant—*House provided by local authority not under Housing Acts—Recovery of possession.*

Early in 1900 a local authority provided a pumping station and also built cottages for the attendants who would be employed at the station. As employees left and others were engaged already suitably housed, it became necessary in 1935 to let one cottage to an ordinary applicant on the council's housing waiting list, who was not in the service of the local authority. Circumstances may arise where it may become necessary to recover possession of the cottage. It has been the practice of the council to meet the cost of repairs out of the general rate fund and to credit the rent received to that fund. Would you please advise whether having regard to the provisions of the Rent Restrictions Acts and the Housing Acts, 1936 and 1949, it would be necessary for the local authority to offer the existing tenant alternative accommodation in the event of possession of the cottage being required, or whether they could rely on their powers under the Housing Acts? AQUA.

Answer.

The special privileges under the Rent Restrictions Acts which a local authority enjoys are for houses provided under the Housing Acts. As regards the house mentioned in this query, the council are in the same position as any other landlord.

2.—Licensing—*Occasional licence—Interpretation of "ball" within the meaning of s.* 151 *of the Customs and Excise Act*, 1952.

There is a divergence of opinion here regarding the interpretation of the above section relating to the specified occasions. One opinion is that the word "ball" should be strictly construed as a formal ball which would usually be held annually, and that it is not a "dance." The other opinion is that the word "ball" should be construed in a wider sense and should cover dances, and that the occasions public dinner and ball are specifically mentioned to differentiate them between occasions such as cricket matches, public races, fairs, etc., where intoxicants would be sold in marquees.

In the past this question was never raised and in the notes to s. 64 of the Licensing (Consolidation) Act, 1910, references were made to (*inter alia*) "county balls" and there was no mention of dances; the police raised no objection to the justices' consent when the occasion was a dance. Furthermore, the supporters of the second opinion maintain that if the first opinion is the correct one it would give rise to the persistent but unfounded adage "a law for the rich; a law for the poor."

Your valued opinion would be appreciated. NEU.

Answer.

The Revenue Act, 1862, s. 13, which first introduced the occasional licence into the law, prescribed that sales of intoxicating liquor under such a licence should be confined to the hours between sunrise and sunset. The Revenue Act, 1863, s. 20, amended the law so as to fix the hours between sunrise and 10 *p.m.*, but permitted an enlargement of these hours "upon the occasion of any public dinner or ball." No doubt at this period in social history, before popular dancing had become fashionable, the word "ball" was well understood; but in modern days it seems to have attracted a larger meaning.

The word "ball" was carried into the consolidated Customs and Excise Act, 1952, s. 151, when it must have been well known that the word was generally interpreted by petty sessional courts as including what are nowadays usually referred to as "dances." The word has never been judicially defined, so far as we know, and in the recent case of *R.* v. *Bath Licensing Justices, Ex parte Chittenden* (1952) 116 J.P. 569, it was apparently unnoticed: but it is interesting to observe that in this case occasional licences had been granted so as to overrun the hour of 10 *p.m.* where the occasions were open air dancing in public gardens.

3.—Magistrates—*Jurisdiction and powers—Arrest under warrant issued without jurisdiction—Defendant "in custody" for the purpose of s.* 11 *Criminal Justices Act*, 1925.

A house is broken into in the county of X (not London or Middlesex) and goods stolen. A few days later A is arrested in London with the stolen goods on him and makes a statement that he received the goods from B in London. There is nothing to suggest that either A or B took part in the theft or had ever been in the county of X. It is desired to proceed with the receiving charges against both A and B in the county of X.

A is detained one night at a London police station and next day he is brought to a police station in the county of X on a warrant issued by a justice for the county of X and remains one night in the latter police station, next day being brought before a justice for the county of X and is released on bail. B is also arrested in London and is released on bail there.

It is now suggested that A does not come within s. 11 of the Criminal Justice Act, 1925, as he was not apprehended in the county of X and is not in custody there and that the justices for the county of X have no jurisdiction to deal with either A or B as there is no evidence that the offence was committed there and in fact that the warrant should never have been issued.

If A had been charged with the theft at X and then a charge of receiving in London had also been preferred, possibly the X justices could have dealt with the receiving charge?

1. (*a*) Can A and B be dealt with or committed for trial by X Justices, and if so on what authority? (The receiving charges are not joint charges but separate ones).

(*b*) Can it be argued that as A spent one night in a police station in X county and was released on bail that he is still "in custody" in X county within s. 11, having already been apprehended and in custody in London?

2. If the X justices have no jurisdiction can the warrant be withdrawn and a fresh warrant or summons issued in London?

We can find no authorities or cases on these points and should much appreciate your opinion on the matter. JIB.

Answer.

Section 11 enacts with regard to a summons that it must have been *lawfully issued* to confer jurisdiction, but when a defendant has been arrested it is argued, on the authority of *R.* v. *Sattler* (1858) 22 J.P. 84, that the legality of his arrest is immaterial if he is in fact in custody within the particular jurisdiction.

It seems strange that justices should be able to confer jurisdiction upon themselves by the issue of an illegal warrant, and it may be that if the High Court were called upon to decide this specific point they would not follow *R.* v. *Sattler*, *supra*.

In this case no offence of receiving was committed in X, and A was not in X when the warrant was issued. There was, therefore, no authority for its issue. A, however, was in fact in custody under the warrant at the police station in X before being brought before a justice, we assume on the charge of receiving. On the literal reading of s. 11 this gives jurisdiction to the justices of X which is not taken away by his subsequent release on bail.

To answer the specific questions:

1. (*a*) A can be dealt with for the reasons given above, and once it is accepted that A can be dealt with it may be argued that, under s. 31 (1) of the Criminal Justice Act, 1925, it is expedient that B should be tried in the same place as A.

(*b*) *See* above.

2. Does not arise, but we would point out that this warrant has been executed and cannot now be withdrawn.

4.—Magistrates—*Jurisdiction and powers—Death of defendant—Enforcement of fine.*

I shall be obliged if you will let me have your advice on the correct procedure to follow under the following circumstances.

I am clerk to a bench of magistrates which imposed a fine upon an old man for cruelty to animals. This fine was not paid and when a warrant was issued it was ascertained that he had left the district. Accordingly, the warrant was cancelled and a transfer of fine order was made for the fine to be transferred for collection to the clerk to the magistrates of the area where he had moved. So far as I am aware the defendant was practically penniless and he never made any attempt to pay anything off the fine. I have now heard from the clerk to the division to which the fine was transferred that he issued the usual notice of transfer of fine order and sent it by post to the defendant who was at an Old People's Home in his district. The defendant's son has now called upon him and informed him that his father died there on the day following the posting of the notice of transfer of fine order. I think that probably there is practically nothing in his estate. What is the correct procedure to follow now and who is responsible for taking any further steps to recover this fine? If it cannot be recovered, can it be written off on my books as irrecoverable? I have not experienced a case like this before, but it seems to me that the collection of the fine having been transferred from my division, it should be the responsibility of the other division to satisfy itself that the money is irrecoverable or, presumably, to take steps to recover the money from the estate of the deceased. JUD.

Answer.

A fine cannot be enforced against the estate of a deceased defendant. Once it is established that the defendant is dead the fine is irrecoverable.

5.—Magistrates—*Jurisdiction and powers—Vehicles (Excise) Act*, 1949—*Procedure for recovering penalties under s.* 13 (2).

At a local magistrates' court held last week, a person was charged under s. 13 (2) of the Vehicles (Excise) Act, 1949, with using a motor vehicle in December last year, for a purpose for which a higher rate of duty was chargeable. The solicitor for the defence referred to the case of *Brown* v. *Allweather Mechanical Grouting Co., Ltd.*, [1953] 1 All E.R. 474, in which a firm was proceeded against under s. 5 of the Summary Jurisdiction Act, 1848, for aiding and abetting a driver in the commission of a similar offence as described above and which was dismissed by the justices and on appeal were upheld by the Queen's Bench Division. The solicitor argued that as the Queen's Bench Court had held in this case that s. 13 (2) of the Vehicles (Excise) Act, 1949, did not create " an offence punishable on summary conviction," the justices had no jurisdiction to try the case. The magistrates' clerk and the justices upheld this submission, and the case was dismissed.

Do you consider the decision of the justices a correct one ?

In his remarks, the Lord Chief Justice said *inter alia*, that s. 13 (2) of the 1949 Act provided a monetary penalty which could be recovered in various forms of proceedings, but " it is not an offence punishable as a criminal offence though the penalty may be recovered in penal proceedings." If you agree with the justices' decision, what do you consider should now be the correct procedure for dealing with these offences ? JOG.

Answer.

Opinions differ on this matter. Our view is that s. 283 (2) of the Customs and Excise Act, 1952, provides as from January 1, 1953, the procedure for dealing with offences under the said s. 13 (2) and other similar provisions. It may be that another High Court decision will be necessary to decide the point. We do not agree with the justices' decision in the case in question.

6.—Municipal Corporation—*Elective auditor—Election expenses.*

Under the provisions of s. 78 (2) of the Representation of the People Act, 1949, an elective auditor cannot incur any expenses in connexion with his election ; if this be so, what means could rival candidates be advised to take to put their respective cases before the electorate ? BUTT.

Answer.

We cannot see any means of doing so.

7.—National Assistance—*Order under s.* 43, *National Assistance Act*, 1948—*Defendant in Nova Scotia.*

I shall be very grateful if you would tell me whether in your opinion the National Assistance Board is at liberty to apply to the court under s. 3 of the Maintenance Orders (Facilities for Enforcement) Act, 1920, for a provisional order against the husband in Canada and under s. 43 of the National Assistance Act, 1948. The provisions of the Maintenance Orders (Facilities for Enforcement) Act, 1920, do not appear to me to contemplate such an application and I am wondering whether this Act is limited really to matrimonial complaints between husband and wife.

To assist you I am sending you a copy of the complaint and I would refer you to the article at 86 J.P.N. 225. You will notice that in that article it is clearly understood that the Act of 1920 refers entirely to matrimonial affairs. I refer to the caption in Form I which states that desertion is a ground upon which a Maintenance Order may be made within the meaning of the Maintenance Orders (Facilities for Enforcement) Act, 1920. SUB.

Answer.

In our opinion an order for periodical payments in respect of the maintenance of wife and children under s. 43, *supra*, comes within the definition of " maintenance order " contained in s. 10 of the Maintenance Orders (Facilities for Enforcement) Act, 1920, and an application under s. 3 of the Act of 1920 can be made.

8.—Road Traffic Acts—*Speed limit of goods vehicles—Position when vehicle returning empty after delivering goods.*

As a result of the decisions in *Blenkin* v. *Bell* 116 J.P. 317, and *Woolley* v. *Moore* decided October 21, 1952, it has been held that a motor van whilst not being used for the carriage of goods is not subject to a speed limit of thirty *m.p.h.* This would appear to be the case where a van is driven to a point at which all its goods are delivered and then returns empty during which latter journey no speed limit applies. Your views would be appreciated especially in the light of the final words of the Lord Chief Justice in *Blenkin* v. *Bell*, *supra*. J.V.F.R.

Answer.

Before the decision in *Blenkin* v. *Bell*, *supra*, we were inclined to the view that, if a vehicle started on a round which involved delivering goods at one or more points and then returning to its starting point or to some other fixed point, the whole journey involved a use of the vehicle for the carriage of goods for hire or reward or in connexion with the licence holder's trade or business.

Since the two decisions referred to in the question we feel that the High Court would be more likely to hold that unless the vehicle is actually carrying goods the speed limit does not apply.

9.—Water Act, 1945—*Supply to new houses—New main for other properties.*

D-C-B is a triangle of roads. The shortest side, C-B, is part of the High Street of a small market town, and carries an old three-inch water main. This main is filled from beyond D by a four-inch main D-C. A is a point less than half way from B towards D, and recently a four-inch main B-A has been laid. Fourteen existing houses in B-A find their supplies quite adequate. Some sixty more houses are about to be built along B-A and the water company considers that the supplies in B-C and the rest of the High Street, cannot be adequately maintained if these further houses are served thereby as well. The water company proposes to lay a four-inch main from D to A, and claim that under s. 37 of the Water Act, 1945, the cost not only of the mains on the new housing estate but also of the main D-A must be covered by a 12½ *per cent.* guarantee. What are your views please ? DUSS.

Answer.

We think it doubtful whether the company's contention is sound, but there is, so far as we know, no judicial authority upon the point.

10.—Will—*Bequest of furniture.*

By her will A bequeathed her sitting-room furniture to her daughter B and the residue of her estate to C. The contents of the sitting-room comprised table, chairs, carpet, rugs, ornaments, cushions and pictures. In the distribution of the deceased's estate B contends that in the interpretation of the word " furniture " the bequest includes carpets, rugs, ornaments, cushions and pictures. C contends that only the tables and chairs should be included in the bequest. Your opinion is asked as to whether B or C's contention is correct. DOD.

Answer.

The noun " furniture " and the verb " furnished " are not words of precise meaning. In the law of landlord and tenant carpets and cushions might well be furniture ; their value has, for instance, been taken into account in determining whether premises were let furnished or unfurnished. The question that has to be decided here is not what the expression can mean, but what the testatrix meant. No woman would call a room furnished if it contained only tables and chairs, and in a departmental store most of these things if not all would be furniture, or " soft furnishings."

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